

**BOARD OF ASSESSMENT APPEALS,
STATE OF COLORADO**

1313 Sherman Street, Room 315
Denver, Colorado 80203

Docket No.: 76564

Petitioner:

MARY F. LONG,

v.

Respondent:

CHAFFEE COUNTY BOARD OF EQUALIZATION.

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on February 6, 2020, Diane DeVries and Sondra W. Mercier presiding. Petitioner was represented by Delbert E. Long. Respondent was represented by Jennifer A. Davis, Esq. Petitioner is protesting the 2019 actual value of the subject property.

EXHIBITS AND WITNESSES

The Board admitted Petitioner's Exhibits 1, as well as Respondent's Exhibits A-B. The Board designated as an expert Respondent's witness Mr. Daren Williams, holding a Colorado Certified Residential appraisal license and employed by the Chaffee County Assessor's Office (Assessor).

DESCRIPTION OF THE SUBJECT PROPERTY

8953 Hanging Tree Drive, Unincorporated Chafee County, Colorado
Chaffee County Schedule No.: R368534200021

The subject property is a residence in Chafee County. The subject property's actual values as assigned by the County Board of Equalization (CBOE) below and as requested by each party are:

CBOE's Assigned Value:	\$ 507,027
Respondent's Requested Value:	\$ 507,027
Petitioner's Requested Value:	\$ 422,482

BURDEN OF PROOF

In a proceeding before the Board, the taxpayer has the burden of proof to establish, by a preponderance of evidence, that the assessor's valuation is incorrect. *Bd. of Assessment Appeals v. Sampson*, 105 P.3d 198 (Colo. 2005). Proof by a preponderance of the evidence means that the evidence of a circumstance or occurrence preponderates over, or outweighs, the evidence to the contrary. *Mile High Cab, Inc. v. Colorado Public Utilities Comm'n*, 302 P.3d 241, 246 (Colo. 2013). The evaluation of the credibility of the witnesses and the weight, probative value, and sufficiency of all of the evidence are matters solely within the fact-finding province of the Board of Assessment Appeals, whose decisions in such matters may not be displaced on appeal by a reviewing court. *Gyurman v. Weld Cty. Bd. of Equalization*, 851 P.2d 307, 310 (Colo. App. 1993).

APPLICABLE LAW

In valuing residential properties, Colorado's statutes and constitution require that the valuation of residential property be determined solely by the market approach to appraisal. Colo. Const. art. X, § 20(8)(c); § 39-1-103(8)(5)(a), C.R.S. (2019). The market approach relies on comparable sales, as required under section 39-1-103(8)(a)(I), C.R.S. (2019), which states:

Use of the market approach shall require a representative body of sales, including sales by a lender or government, sufficient to set a pattern, and appraisals shall reflect due consideration of the degree of comparability of sales, including the extent of similarities and dissimilarities among properties that are compared for assessment purposes.

While equalization is the goal of uniform means and methods of assessment, perfect uniformity is not required under Colorado's statutes or constitution. *Crocog Co. v. Arapahoe Cty. Bd. of Equalization*, 813 P.2d 768, 770 (Colo. App. 1990). Further, as the Colorado Supreme Court stated in *Arapahoe Cty. Bd. of Equalization v. Podoll*, 935 P.2d 14, 18 n.12 (Colo. 1997):

While the valuation of property similarly situated is credible evidence at trial pursuant to § 39-8-108(5)(b), C.R.S. (1994), a disparity in percentage increases in the assessments of neighboring properties does not, by itself, warrant assessment reduction.

BOARD'S FINDINGS AND CONCLUSIONS

Petitioner contends that the total increase in value compared to the prior base period is excessive and exceeds the increase placed on other properties in the neighborhood.

Rather than presenting comparable sales or other evidence using the market approach to appraisal, Petitioner presented the Assessor's values assigned to other properties, and relied on

these assigned values in arguing that the subject was not valued fairly relative to similar properties. As a result, Petitioner's evidence of a disparity in percentage increases in assigned values, by itself, is insufficient to warrant assessment reduction.

Upon review of Mr. Long's testimony regarding the subject property's below-average condition, as well as indications by Respondent's witness as to an average condition based on an exterior inspection, the Board finds that the subject property is in average condition.

Respondent's witness correctly completed a site-specific market approach for the subject property, comparing sales of similar residences and adjusting for a variety of characteristics. Respondent's appraisal supported the assigned value.

After careful consideration of all of the evidence, including testimony presented at the hearing, the Board finds that Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2019.

ORDER

The petition is denied.

APPEAL RIGHTS

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 3rd day of April, 2020.

BOARD OF ASSESSMENT APPEALS

Drafting Board Member:



Sondra W. Mercier
Sondra W. Mercier

Concurring Board Member:

Diane M. DeVries
Diane M. DeVries,
Concurring without modification
pursuant to § 39-2-127(2), C.R.S.

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Jacqueline Lim
Jacqueline Lim